

WAGGONER
Appl. No. 09/740,486
September 25, 2003

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 25-29 remain active in the application subsequent to entry of this Amendment.

Responding to the issues raised in the outstanding Official Action in the order presented, submitted with this response are formal drawings.

With regard to the examiner's comments directed to the Information Disclosure Statement filed November 13, 2002, the documents being drawn to the examiner's attention come from the files of earlier applications in this series and copies of them of course will be available in the files of those earlier applications.

In the attached PTO-1449 the Ficken et al text is listed and the relevant page numbers, 334-335, are included.

I have not been able to determine the date of publication of the excerpt from the Neblette textbook so I am not able to provide this information.

Attached are copies of the two Japanese-originating patent documents as well as an English abstract of each. With this Information Disclosure Statement I have included the relevant fee to assure consideration of the above-mentioned documents.

Claims 25-29 have attracted a rejection of failure to possess the claimed invention/new matter with regard to the expression "sulfoindolenine ... polymethine" dyes. While applicant believes this expression to be properly descriptive of the invention and characteristic of it, in order to advance examination the terminology specifically suggested by the examiner at the bottom of page 3 of the Official Action has been incorporated into claims 25, 26 and 29, the only change being the spelling oxonol has been corrected per Dr. Waggoner's suggestion. It is submitted that all claims are now compliant with 35 USC §112, first paragraph and reconsideration is requested.

Non-statutory double patenting rejections have been raised on the basis of U.S. patents 6,225,050, 5,627,027 and 5,569,766. Attached are Terminal Disclaimers in

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respect of each of these patents all of which are commonly owned by the assignee of the present application.

Having resolved all of the issues raised in the outstanding Official Action and in the absence of any applied prior art, reconsideration of this application and the allowance of claims 25-29 is solicited.

Respectfully submitted,

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